



TERRANCE A MEADOR  
BAKER MGRAY CARY WARE & FREIDENRICK  
SYMPHONY TOWERS  
401 B STREET SUITE 1700  
SAN DIEGO, CA 92101

**COPY MAILED**

**AUG 14 2007**

**OFFICE OF PETITIONS**

In re Application of Sovik et al.	:	
Application No. 08/866,607	:	Decision on Petition
Filing Date: May 30, 1997	:	
Attorney Docket No. TUC9-1997-0004-US1	:	

This is a decision on the petition filed April 24, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed June 14, 1999, which set a shortened statutory period for reply of three (3) months. The above-identified application became abandoned on September 15, 1999. A Notice of Abandonment was mailed on May 3, 2000.

Petitioner contends formal drawings were filed November 12, 1999. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating that "Formal Drawings" were received on November 12, 1999. A copy of six sheets of drawings accompanies the petition.

The original drawings filed November 12, 1999, were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded the drawings were timely filed in the Patent and Trademark Office but not matched with the application file.

Petitioner has failed to prove a request and payment for a two-month extension of time were filed with the drawings. The postcard receipt fails to indicate any papers were filed on November 12, 1999, in addition to the formal drawings. Therefore, the postcard is not prima facie proof of the filing of a petition for an extension of time. Since petitioner has failed to prove a request and payment for a two-month extension of time were filed with the drawings, the drawings filed November 12, 1999, were untimely and the application is abandoned.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee (\$1,500 for a large entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

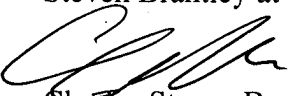
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300  
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions

cc: Jennifer Anda  
IBM Corporation, IP Law  
9000 S. Rita Rd.  
Tucson, AZ 85744